

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 03-2477

United States of America,

Appellee,

v.

Eugar D. Burnett,

Appellant.

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Appeal from the United States
District Court for the Eastern
District of Missouri.

[UNPUBLISHED]

Submitted: November 25, 2003

Filed: December 9, 2003

Before MORRIS SHEPPARD ARNOLD, McMILLIAN, and FAGG, Circuit Judges.

PER CURIAM.

Eugar D. Burnett challenges the sentence imposed for a firearm conviction when Burnett was resentenced by the district court.* Although we affirmed Burnett's original sentence in United States v. Burnett, 60 Fed. Appx. 639 (8th Cir. 2003) (unpublished per curiam), the district court resentenced Burnett to delete a reference in the judgment and commitment to another federal case. Burnett's counsel has

*The Honorable Jean C. Hamilton, United States District Judge for the Eastern District of Missouri.

moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967).

We reject counsel's arguments, because they raise matters settled in Burnett's first criminal appeal. Burnett also raises a number of arguments in a pro se supplemental brief, but these arguments were or could have been raised in his earlier appeal, and his claim of ineffective assistance of counsel is not properly raised in this direct criminal appeal. See United States v. Logan, 333 F.3d 876, 877-78 (8th Cir.), cert. denied, 2003 WL 22207172 (U.S. Nov. 3, 2003) (No. 03-6456); United States v. Hughes, 330 F.3d 1068, 1069 (8th Cir. 2003).

Having reviewed the record independently under Penon v. Ohio, 488 U.S. 75, 80 (1988), we find no nonfrivolous issues. We affirm, and we grant counsel's motion to withdraw.
